

CALENDAR ITEM

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04/20/17

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PRC 4146.1

K. Connor

ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

APPLICANT:

TLC 1970, LLC, a California limited liability company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 1970 West Lake Boulevard, near Tahoe City, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier, boat lift, and two mooring buoys.

LEASE TERM:

10 years beginning April 20, 2017.

CONSIDERATION:

\$1,784 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses.
3. If Lessee does not have valid Tahoe Regional Planning Agency (TRPA) buoy permits, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such

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authorization within the time limit, they may be required to remove the buoys.

4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On February 5, 2007, the Commission authorized a Recreational Pier Lease for an existing pier, boat lift, and two mooring buoys to Daniel W. Morehead and Devon M. Morehead, as Trustees of the Morehead Family Trust Dated January 12, 2004 ([Calendar Item C08, February 5, 2007](#)). That lease expired on October 27, 2016. On September 16, 2016, ownership of the upland parcel was deeded to TLC 1970, LLC, a California limited liability company.

On October 13, 2016, the Applicant submitted an application for a General Lease – Recreational Use for the continued use and maintenance of the existing pier, boat lift, and two mooring buoys. The Applicant's pier and two mooring buoys have been in Lake Tahoe for many years.

The subject improvements facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust land (Pub. Resources Code, § 6503.5).

The subject improvements have existed for many years at this location. The pier is built on pilings and rock cribs with the immediate area of the pier being lightly sloped with gravel. The topography and location of upland structures provides access for the pier and allows the public to walk or navigate under the pier within the Public Trust easement. The two buoys are located directly lakeward of the upland property and occupy a relatively small area of the lake.

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The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission accept compensation for the unauthorized occupation of State land in the amount of \$1,105 for the period beginning September 16, 2016, the date the Applicant was deeded the upland parcel, through April 19, 2017, the day before the new lease, if authorized by the Commission, becomes effective.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et

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seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with Public Trust needs and values at this location, at this time, or for the foreseeable term of the lease, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize acceptance of compensation in the amount of \$1,105 for unauthorized occupation of State land for the period beginning September 16, 2016 through April 19, 2017.
2. Authorize issuance of a General Lease – Recreational Use to TLC 1970, LLC, a California limited liability company, beginning April 20, 2017, for a term of 10 years, for the continued use and maintenance of an existing pier, boat lift, and two mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof;

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annual rent in the amount of \$1,784, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4146.1

LAND DESCRIPTION

Three (3) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 of fractional Section 24, Township 15 North, Range 16 East, MDM., County of Placer, State of California, and more particularly described as follows:

PARCEL 1 - PIER

All those lands underlying an existing pier, catwalk and boatlift lying adjacent to that parcel as described in that Grant Deed recorded August 16, 2016 as Document Number 2016-0078141 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2 & 3 – BUOYS (2)

Two (2) circular parcels of land, each being 50 feet in diameter, underlying two (2) existing buoys lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 30, 2016 by the California State Lands Commission Boundary Unit.





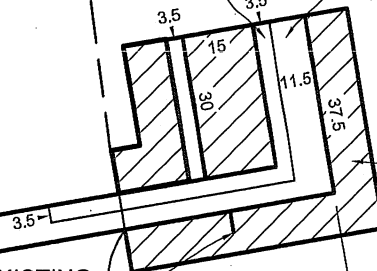
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APN 084-140-024

APPROXIMATE

EXISTING CATWALK EXISTING PIER



9' IMPACT AREA(S)

EXISTING
BOATLIFT

140'

SHORELINE

6223± LTD

300'

75'

EXISTING
BUOYS (2)

EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 4146.1, TLC 1970, LLC
PLACER COUNTY

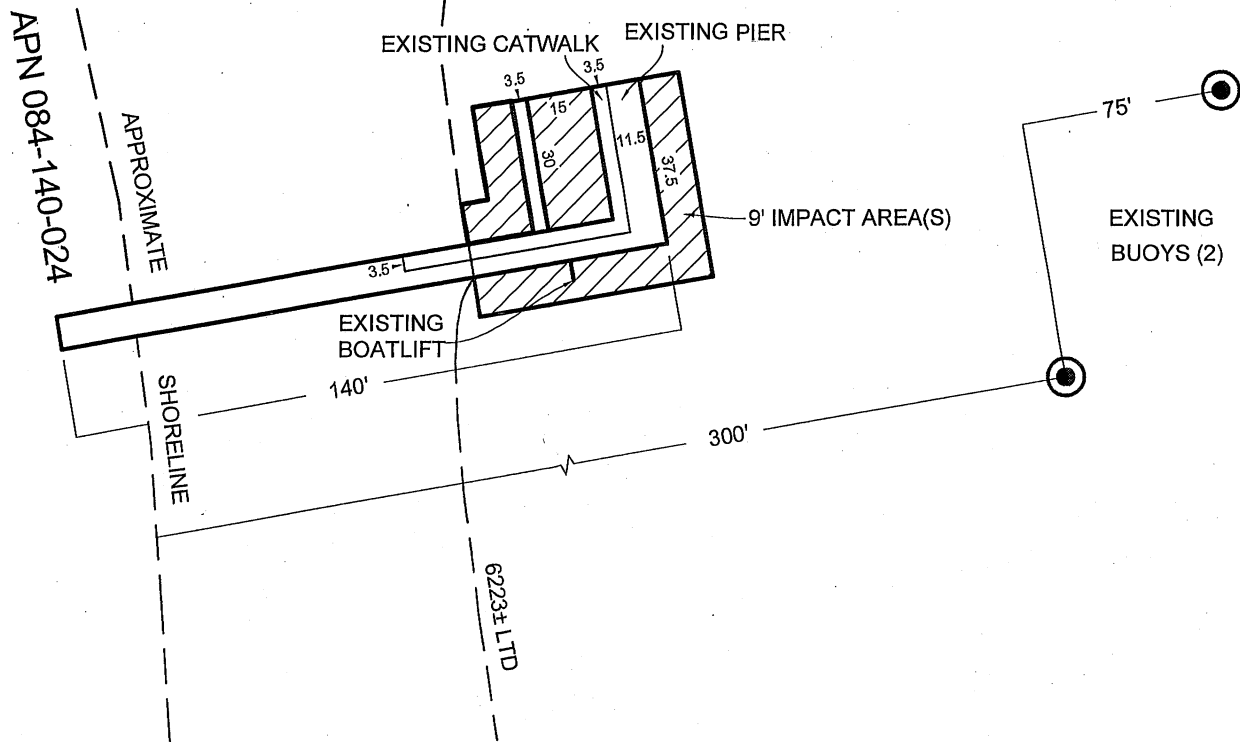
CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE

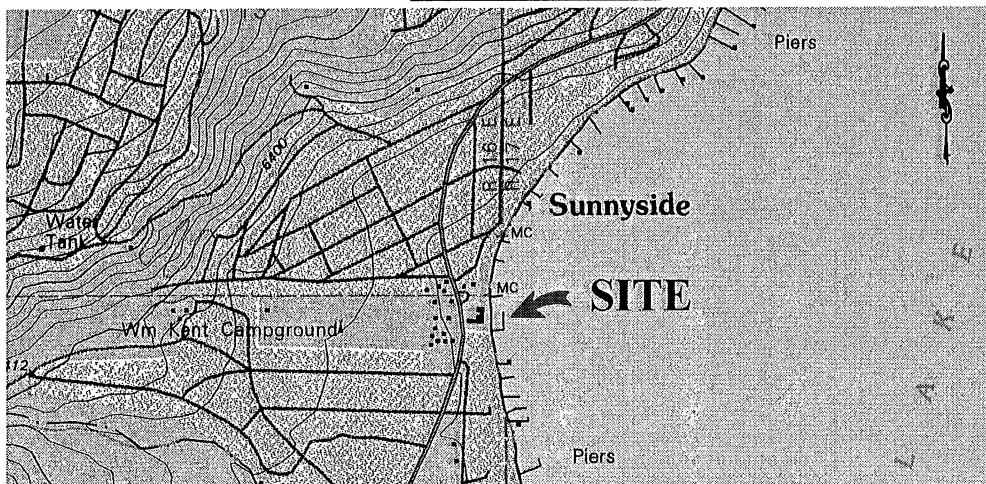
L A K E
T A H O E



1970 WEST LAKE BLVD., NEAR TAHOE CITY

NO SCALE

LOCATION

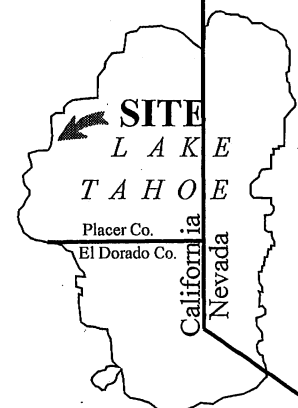


MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 4146.1
TLC 1970, LLC
APN 084-140-024
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



MJJ 12/30/2016